

<i>SERFF Tracking Number:</i>	<i>ERCB-125764010</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Westport Insurance Corporation</i>	<i>State Tracking Number:</i>	<i>EFT \$50</i>
<i>Company Tracking Number:</i>	<i>WIC-SSVC-AR-08-03842-1-F</i>		
<i>TOI:</i>	<i>17.0 Other Liability - Claims Made/Occurrence</i>	<i>Sub-TOI:</i>	<i>17.0001 Commercial General Liability</i>
<i>Product Name:</i>	<i>AR - WIC - Social Services Organization Program - Form Filing</i>		
<i>Project Name/Number:</i>	<i>AR - WIC - Social Services Organization Program - Form Filing/WIC-SSVC-AR-08-03842-1-F</i>		

## Filing at a Glance

Company: Westport Insurance Corporation		
Product Name: AR - WIC - Social Services Organization Program - Form Filing	SERFF Tr Num: ERCB-125764010	State: Arkansas
TOI: 17.0 Other Liability - Claims Made/Occurrence	SERFF Status: Closed	State Tr Num: EFT \$50
Sub-TOI: 17.0001 Commercial General Liability	Co Tr Num: WIC-SSVC-AR-08-03842-1-F	State Status: Fees verified and received
Filing Type: Form	Co Status:	Reviewer(s): Betty Montesi, Edith Roberts
	Author: Robin Bromell	Disposition Date: 09/02/2008
	Date Submitted: 08/06/2008	Disposition Status: Approved
Effective Date Requested (New): 09/15/2008		Effective Date (New):
Effective Date Requested (Renewal): 09/15/2008		Effective Date (Renewal):
State Filing Description:		

## General Information

Project Name: AR - WIC - Social Services Organization Program - Form Filing	Status of Filing in Domicile: Pending
Project Number: WIC-SSVC-AR-08-03842-1-F	Domicile Status Comments:
Reference Organization:	Reference Number:
Reference Title:	Advisory Org. Circular:
Filing Status Changed: 09/02/2008	
State Status Changed: 09/02/2008	Deemer Date:
Corresponding Filing Tracking Number:	
Filing Description:	
Westport Insurance Corporation (WIC) is filing two revised forms for our Social Services Organization Program. This program provides professional liability coverage and Physical and Sexual Abuse coverage for the insured and employees of the insured who provide services towards Drug and Alcohol Rehabilitation. These coverages are provided along with our generically filed ISO General Liability coverage. The rates currently on file remain unchanged.	

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Social Services Professional Liability Coverage Endorsement, SP 1 956 0208, has been revised to improve readability and clarity. The form has also been revised to no longer exclude Mental Anguish and the 30 day automatic coverage for any professional. This new form will replace previously filed and approved form SP 1 956 0402.

Physical and Sexual Abuse Liability Endorsement, SP 1 957 0608, has been revised to improve readability and clarity. This form has also been revised to include Physical Abuse, in addition to the original Sexual Abuse and this form no longer excludes abuse committed by contractors. This new form will replace previously filed and approved form SP 1 957 0402.

With this filing we would also like to withdraw Coverage for Designated Professionals Endorsement, SP 1 958 0402, Commercial General Liability Coverage Part – Social Services Professional Liability Coverage Part – Declarations, SP 1 959 0402, and Mental Anguish Endorsement, SP 2 435 1102. These endorsements have been included into the revised endorsement SP 1 956 0208.

This filing is being submitted under the Prior Approval provisions. We respectfully request an effective date of September 15, 2008.

## Company and Contact

### Filing Contact Information

Robin Bromell, Compliance Specialist	robin_bromell@swissre.com
5200 Metcalf	(800) 255-6931 [Phone]
Overland Park, KS 66201	

### Filing Company Information

Westport Insurance Corporation	CoCode: 39845	State of Domicile: Missouri
5200 Metcalf	Group Code: 181	Company Type:
Overland Park, KS 66201	Group Name: Swiss Re	State ID Number:
(800) 255-6931 ext. [Phone]	FEIN Number: 48-0921045	

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## Filing Fees

Fee Required?	Yes
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<i>SERFF Tracking Number:</i>	<i>ERCB-125764010</i>	<i>State:</i>	<i>Arkansas</i>
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<b>Fee Amount:</b>	<b>\$50.00</b>		
<b>Retaliatory?</b>	<b>No</b>		
<b>Fee Explanation:</b>			
<b>Per Company:</b>	<b>No</b>		

*SERFF Tracking Number:*      *ERCB-125764010*      *State:*      *Arkansas*  
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COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
Westport Insurance Corporation	\$50.00	08/06/2008	21815214

SERFF Tracking Number:      ERCB-125764010      State:      Arkansas  
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## Correspondence Summary

### Dispositions

Status	Created By	Created On	Date Submitted
Approved	Edith Roberts	09/02/2008	09/02/2008

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## **Disposition**

Disposition Date: 09/02/2008

Effective Date (New):

Effective Date (Renewal):

Status: Approved

Comment: Form SP 1 957 0608 is being approved conditionally as an endorsement to GL coverage, as the coverage form contains defense within the limit of liability, but is being allowed as this is "buy back" coverage for usually excluded coverage.

Rate data does NOT apply to filing.

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Filing Company: Westport Insurance Corporation State Tracking Number: EFT \$50

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TOI: 17.0 Other Liability - Claims Made/Occurrence Sub-TOI: 17.0001 Commercial General Liability

Product Name: AR - WIC - Social Services Organization Program - Form Filing

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Item Type	Item Name	Item Status	Public Access
Supporting Document	Uniform Transmittal Document-Property & Casualty	Approved	Yes
Form	Social Services Professional Liability Coverage Endorsement	Approved	Yes
Form	Physical and Sexual Abuse Liability Endorsement	Approved	Yes
Form	Coverage for Designated Professionals Endorsement	Approved	Yes
Form	Commercial General Liability Coverage Part - Social Services Professional Liability Coverage Part - Declarations	Approved	Yes
Form	Mental Anguish Endorsement	Approved	Yes

SERFF Tracking Number: ERCB-125764010 State: Arkansas

Filing Company: Westport Insurance Corporation State Tracking Number: EFT \$50

Company Tracking Number: WIC-SSVC-AR-08-03842-1-F

TOI: 17.0 Other Liability - Claims Made/Occurrence Sub-TOI: 17.0001 Commercial General Liability

Product Name: AR - WIC - Social Services Organization Program - Form Filing

Project Name/Number: AR - WIC - Social Services Organization Program - Form Filing/WIC-SSVC-AR-08-03842-1-F

## Form Schedule

Review Status	Form Name	Form #	Edition Date	Form Type Action	Action Specific Data	Readability	Attachment
Approved	Social Services Professional Liability Coverage Endorsement	SP 1 956	0208	Endorsement/Amendment/Conditions	Replaced Form #:0.00 SP 1 956 0402 Previous Filing #:		SP 1 956 0208.pdf
Approved	Physical and Sexual Abuse Liability Endorsement	SP 1 957	0608	Endorsement/Amendment/Conditions	Replaced Form #:0.00 SP 1 957 0402 Previous Filing #:		SP 1 957 0608.pdf
Approved	Coverage for Designated Professionals Endorsement	SP 1 958	0402	Endorsement/Amendment/Conditions	Replaced Form #:0.00 Previous Filing #:		
Approved	Commercial General Liability Coverage Part - Social Services Professional Liability Coverage Part - Declarations	SP 1 959	0402	Declaration Withdrawn	Replaced Form #:0.00 Previous Filing #:		
Approved	Mental Anguish Endorsement	SP 2 435	1102	Endorsement/Amendment/Conditions	Replaced Form #:0.00 Previous Filing #:		



# ***Westport Insurance Corporation***

## **SOCIAL SERVICES PROFESSIONAL LIABILITY COVERAGE ENDORSEMENT**

This endorsement modifies coverage under the

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

### **SCHEDULE**

<b>LIMITS OF INSURANCE</b>		
Professional Liability Aggregate Limit		\$
Each Professional Incident Limit		\$
<b>PREMIUM BASIS</b>	<b>RATE</b>	<b>PREMIUM</b>
Per Professional Employee	Various	
<b>DESIGNATED PROFESSIONAL</b>		

### **I. PROFESSIONAL LIABILITY COVERAGE**

With respect to coverage provided by this endorsement, the provisions of the General Liability Coverage Form apply unless modified by the endorsement. The following changes are applicable only to the coverage provided by this endorsement.

#### **SECTION I - COVERAGES**

The following coverage is added:

#### **PROFESSIONAL LIABILITY COVERAGE**

##### **1. Insuring Agreement.**

- a. We will pay those sums that the insured becomes legally obligated to pay because of injury or damage to which this insurance applies. We will have the right and duty to defend any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for injury or damage to which this insurance does not apply. We may, at our discretion, investigate any "professional incident" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **III** – Limits of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under the **Professional Liability Coverage**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments –**Professional Liability Coverage**.

b. This insurance applies to injury or damage, only if:

- (1) The injury or damage is caused by a "professional incident" that takes place in the "coverage territory";
- (2) The injury or damage occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph **1.** of Section **II** - Who Is An Insured and no "employee" authorized by you to give or receive notice of a "professional incident" or claim, knew that the injury or damage had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the injury or damage occurred, then any continuation, change or resumption of such injury or damage during or after the policy period will be deemed to have been known before the policy period.

c. Injury or damage which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph **1.** of Section **II** - Who Is An Insured or any "employee" authorized by you to give or receive notice of a "professional incident" or claim, includes any continuation, change or resumption of injury or damage after the end of the policy period.

d. Injury or damage will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1.** of Section **II** - Who Is An Insured or any "employee" authorized by you to give or receive notice of a "professional incident" or claim:

- (1) Reports all, or any part, of the injury or damage to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the injury; or
- (3) Becomes aware by any other means that the injury has occurred or has begun to occur.

## 2. Exclusions.

The following exclusions described in **Section I – Coverages, Coverage A Bodily Injury and Property Damage Liability, 2. Exclusions** also apply to all injury or damage under the **Professional Liability Coverage: 2.a. Expected or Intended Injury, 2.d. Workers Compensation and Similar Laws, 2.i. War, 2.j. Damage to Property, 2.o. Personal and Advertising Injury and 2.p. Electronic Data,**

The following exclusions described in **Section I – Coverages, Coverage B Personal and Advertising Injury, 2. Exclusions** also apply to all injury or damage under the **Professional Liability Coverage: 2.m. Pollution and 2.n. Pollution-Related.**

In addition, this insurance does not apply to:

### a. Contractual Liability

Any injury or damage for which the insured is obligated to pay because of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for injury or damage that the insured would have in the absence of the contract or agreement.

### b. Criminal, Dishonest, Fraudulent or Malicious Acts

Any injury or damage arising out of any criminal, dishonest, bad faith, fraudulent or malicious act or failure to act of any insured or of anyone for whose act or failure to act for which the insured is legally responsible. This exclusion does not apply to any insured who did not:

- (1) personally participate in committing any such act; or
- (2) did not have personal knowledge of any such act.

### c. Aircraft, Auto, Mobile Equipment or Watercraft

Injury or damage arising out of the ownership, maintenance, use or entrustment to others of any aircraft, “auto”, “mobile equipment” or watercraft. Use includes operation and “loading or unloading”.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “professional incident” which caused the injury or damage involved the ownership, maintenance, use or entrustment to others of any aircraft, “auto”, “mobile equipment” or watercraft.

### d. Injury or Damage to an Insured

Any injury or damage to an insured, or any consequential injury to the spouse, child, parent, brother or sister of that insured.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and

- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**e. Professional Services**

- (1) Any injury or damage arising out of a “professional incident” by any “employee”, who is one of the following described professionals or any student or intern of any described professional:

acupuncturist	anesthesiologist	chiropractist	chiropractor
dentist	nurse anesthetist	nurse midwife	nurse practitioner
optometrist	osteopath	physician	physicians assistant
podiatrist	psychiatrist	radiologist	surgeon
veterinarian	x-ray therapist		

However, this exclusion does not apply to:

- (a) Administrative duties performed for you by such professionals in their capacity as a medical director or administrator. Administrative duties include establishing the scope and type of service provided, conducting quality assurance programs and similar administrative duties, but do not include any acts or omissions by the professional in the direct treatment or examination of individuals.
- (b) Injury or damage arising out of a “professional incident” by any “employee” shown in the schedule as a Designated Professional.
- (c) Injury or damage arising out of a “professional incident” by any “employee,” who is newly hired. However, coverage under this provisions is afforded only until the 29<sup>th</sup> day after the first day of employment for the newly hired “employee”, or the end of the policy period, whichever is earlier.
- (2) Radiological, surgical, dental or shock therapy services
- (3) The prescription, utilization, furnishing or dispensing of drugs or medication or any kind of medical, radiological, surgical, dental or nursing supplies or appliances. However, this exclusion does not apply to you, or any of your other “employees” if these services are authorized by a licensed physician or psychiatrist.
- (4) Operation of any hospital or laboratory.
- (5) Any insured’s activities as a member of a formal accreditation or similar professional board or committee of any hospital or professional society .
- (6) Any damages arising out of the providing or failure to provide professional services as an accountant, architect, attorney, engineer, financial advisor, investment manager, or consultant, or real estate or insurance agent or broker.

**f. Failure to Comply with Laws**

- (1) Any claim or “suit” arising out of a “professional incident” involving a person or entity who is not properly licensed or certified to provide those services under the laws of the state(s) in which the “professional incident” occurred, or who, in the absence of licensing laws, is not qualified to practice that professional occupation.
- (2) Any claim or “suit” arising out of services, which are not authorized or permitted by the laws of the state(s) in which the “professional incident” occurred.
- (3) Any obligation of the insured under the Employees' Retirement Income Security Act (E.R.I.S.A.), and any amendments thereto or any similar federal, state or local statute.

**h. Fine or Penalties**

- . Civil or Criminal fines imposed on you or any other insured, or the return or withdrawal of fees or government payments.

**i. Punitive Damages**

Punitive or exemplary damages.

**j. Funds**

Any claim or “suit” arising out of any inability or failure of the insured or others to collect or pay funds.

**k. Failure to Maintain Insurance**

Any claim or “suit” arising out of any failure or omission to purchase or to maintain adequate insurance or bonds, or to adequately administer any self-insurance fund.

**l. Coverage A**

“Bodily Injury,” or “Property Damage” to which Coverage A applies.

**m. Abuse or Molestation**

Injury or damage arising out of:

- (1) The actual or threatened abuse or molestation by anyone of any person while that person is in the care, custody or control of any insured, or
- (2) The negligent
  - (a) Employment;
  - (b) Investigation;
  - (c) Supervision;

(d) Reporting to the proper authorities, or failure to so report; or

(e) Retention

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by paragraph (1) above.

**n. Acts of Discrimination**

Injury or damage arising out of any act or omission of an insured undertaken or committed for reasons including but not limited to race, religion, creed, age, gender, national origin, disability, handicap, status as an individual with a disability (as defined in the Americans with Disabilities Act of 1990 including any amendments thereto), sexual orientation or preference, pregnancy and any act or failure to act with respect to public accommodation or accessibility as required under the Americans with Disabilities Act of 1990 including any amendments thereto.

**o. Employee Benefit Programs**

Injury or damage arising out of any negligent act, error or omission of the insured, or of any other person or organization for whose acts, errors or omissions the insured is legally liable in the administration of employee benefit programs.

**p. Fiduciary Responsibilities**

Any actual or alleged violation of responsibilities, obligations or duties of an insured while acting in a fiduciary capacity.

**q. Personal Profit**

Injury or damage based upon or attributable to an insured gaining any profit, advantage or remuneration to which the insured is not legally entitled.

**SUPPLEMENTARY PAYMENTS – PROFESSIONAL LIABILITY COVERAGE**

We will pay, with respect to any claim or "suit" we defend:

1. All expenses we incur.
2. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
4. All costs taxed against the insured in the "suit".
5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any pre-judgment interest based on that period of time after the offer.

6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

## II. WHO IS AN INSURED

With respect to coverage provided by this endorsement, the provisions of the General Liability Coverage Form apply unless modified by the endorsement. The following changes are applicable only to the coverage provided by this endorsement.

**Section II – Who is an Insured** is changed as follows:

Paragraph 2 of **Section II – Who is an Insured** is replaced by the following:

2. Each of the following is also an insured;
  - a. Your "volunteer workers", but only while acting at the direction of an insured and performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
  - b. Students working for you as part of their training, but only while acting at the direction of an insured and within the scope of their duties related to the conduct of your business.

However, none of these "employees", "volunteer workers" or students are insureds for:

- a. Injury or damage:
  - (1) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee", while in the course of his or her employment or while performing duties related to the conduct of your business, or to your other "volunteer workers" or students while performing duties related to the conduct of your business;
  - (2) To the spouse, child, parent, brother or sister of that co-"employee", "volunteer worker" fellow student as a consequence of the paragraph **a.(1)** above.
  - (3) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury or damages described in **a.(1)** or **(2)** above.

Paragraph 3 of **Section II – Who is an Insured** is amended by the addition of the following paragraph:

- d. **Professional Liability Coverage** does not apply to injury or damage arising out of a "professional incident" committed before you acquired or formed the organization.

### III. LIMITS OF INSURANCE

With respect to coverage provided by this endorsement, the provisions of the General Liability Coverage Form apply unless modified by the endorsement. The following changes are applicable only to the coverage provided by this endorsement.

**Section III – Limits of Insurance** is modified by adding the following:

1. The Limits of Insurance for Professional Liability shown in the Schedule and the rules below fix the most we will pay for professional liability regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The Professional Liability Aggregate Limit is the most we will pay for injury or damage under the **Professional Liability Coverage**.
3. Subject to 2. above, the Each Professional Incident Limit is the most we will pay under the **Professional Liability Coverage** for the sum of all injury or damage because of all injury or damage arising out of any one "professional incident".

The Limits of Insurance for the **Professional Liability Coverage** apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### IV. PROFESSIONAL LIABILITY CONDITIONS

With respect to coverage provided by this endorsement, the provisions of the General Liability Coverage Form apply unless modified by the endorsement. The following changes are applicable only to the coverage provided by this endorsement.

**Section IV – Commercial General Liability Conditions** applies, unless amended as follows:

For "professional incidents," Conditions **2. Duties in the Event of Professional Incident, Claim or Suit** and **4. Other Insurance** are revised as described below:

#### 2. Duties in the Event of Professional Incident, Claim or Suit.

The duties stated in **Section IV - Commercial General Liability Conditions**, paragraph 2., **Duties in the Event of Occurrence, Offense, Claim Or Suit**, apply to **Professional Liability Coverage** and "professional incidents."

#### 4. Other Insurance.

Condition **4. Other Insurance** is replaced in its entirety by the following:



If other valid and collectible insurance is available to the insured for a loss we cover under the **Professional Liability Coverage** of this Coverage Part, our obligations are limited as follows:

**a. Primary Insurance**

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

**b. Excess Insurance**

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis; that is issued to an "employee", "temporary worker", "volunteer worker" or student in training which is coverage for "professional incidents"
- (2) Any other primary insurance available to you covering liability for injury or damage arising out of "professional incidents", for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under **Professional Liability Coverage** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

For Professional Liability Coverage, the following condition is added to **Section IV – Commercial General Liability Conditions**.

#### **Settlement**

For claims and “suits” arising out of a “professional incident”, If the first Named Insured does not agree with a settlement offer which is recommended by us and acceptable to the claimant and elects to contest the claim or continue any legal proceedings in connection with such claim then, subject to the provisions of Section III – Limits of Insurance, as amended by this endorsement, our liability for the claim will not exceed the amount for which the claim could have been settled, plus the cost of defense incurred by us up to the date of such refusal.

#### **V. DEFINITIONS**

**Section V, Definitions**, is modified by the addition of the following definition, which is only applicable to coverage provided by this endorsement:

"Professional incident" means any negligent act, error or omission, actual or alleged, which arises out of the rendering of, or failure to render aid to persons and/or families within the scope of your social services organization. This would include any continuous or repeated exposure to substantially the same general harmful conditions or pattern of activity.

#### **VI. ADDITIONAL EXCLUSION - COVERAGE A AND B**

The following exclusion is added to paragraph 2., **Exclusions of Section I - Coverage A – Bodily Injury and Property Damage Liability** and paragraph 2., **Exclusion of Section I - Coverage B – Personal and Advertising Injury Liability**:

“Bodily injury”, “property damage” or “personal and advertising injury” arising out of a “professional incident”.

All other terms and conditions of this policy shall remain unchanged.

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

# ***Westport Insurance Corporation***

## **PHYSICAL AND SEXUAL ABUSE LIABILITY ENDORSEMENT**

This endorsement modifies the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

<b>LIMITS OF INSURANCE</b>	
Physical or Sexual Abuse Aggregate Limit	\$
Physical or Sexual Abuse Occurrence Limit	\$

#### **I. PHYSICAL AND SEXUAL ABUSE COVERAGE**

With respect to coverage provided by this endorsement, the provisions of the General Liability Coverage Form apply unless modified by the endorsement. The following changes are applicable only to the coverage provided by this endorsement.

##### **SECTION I - COVERAGES**

The following coverage is added:

##### **PHYSICAL AND SEXUAL ABUSE COVERAGE**

###### **1. Insuring Agreement.**

- a.** We will pay those sums that the insured becomes legally obligated to pay because of "bodily injury" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1)** The amount we will pay for damages is limited as described in Section **III** – Limits of Insurance; and
- (2)** Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or "defense expense" under the **Physical and Sexual Abuse Liability Coverage**.

No other obligation or liability to pay sums or perform acts or services is covered.

- b.** This insurance applies to "bodily injury" and "personal and advertising injury", only if:
- (1)** The "bodily injury" or "personal and advertising injury" is caused by an "occurrence" that takes place in the "coverage territory;" and";
  - (2)** The "occurrence" takes place during the policy period.

## **2. Exclusions.**

This insurance does not apply to:

### **a. Contractual Liability**

Any “bodily injury” or “personal and advertising injury” for which the insured is obligated to pay because of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for injury or damage that the insured would have in the absence of the contract or agreement.

### **b. Criminal or Malicious Acts**

Any “bodily injury” or “personal and advertising injury” arising out of any criminal or malicious act, or act of “physical or sexual abuse” or failure to act of any insured or of anyone for whose act, or failure to act for which the insured is legally responsible. This exclusion does not apply to any insured who did not:

- (1) personally participate in committing any such act; or
- (2) did not have personal knowledge of any such act.

### **d. “Bodily injury” or “personal and advertising injury” to an insured**

Any “bodily injury” or “personal and advertising injury” to an insured, or any consequential injury to the spouse, child, parent, brother or sister of that insured.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

### **e. Punitive Damages, fines or penalties**

Punitive or exemplary damages or any other fines or penalties imposed by law or regulation.

### **f. Criminal Prosecution**

The cost of defense of, or the cost of paying any fines for, any person resulting from criminal prosecution for actual or alleged violation of a criminal or penal statute.

### **g. Prior acts**

- (1) “Bodily injury” or “personal and advertising injury” arising from any act committed by a person who has been found guilty of, or pled guilty or no contest to, any criminal act involving any "physical or sexual abuse."

- (2) Any claim or “suit” for “employer negligence” which arise out of, result from, involve or in any way relate to acts or omissions of you or your officer, director, employee or volunteer which take place subsequent to such officer, director, executive employee or administrative employee acquiring knowledge of any “physical or sexual abuse” attempted or committed by any other officer, director, employee, agent, representative or volunteer of an insured.

## II. WHO IS AN INSURED

With respect to coverage provided by this endorsement, the provisions of the General Liability Coverage Form apply unless modified by the endorsement. The following changes are applicable only to the coverage provided by this endorsement.

**Section II – Who is an Insured** is changed as follows:

Paragraph 2 of **Section II – Who is an Insured** is replaced by the following:

2. Each of the following is also an insured:
  - a. Your "volunteer workers," but only while acting at the direction of an insured and performing duties related to the conduct of your business, or your "employees," other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business; and
  - b. Students working for you as part of their training, but only while acting at the direction of an insured and within the scope of their duties related to the conduct of your business.

However, none of these "employees," "volunteer workers" or students are insureds for:

- a. “Bodily injury” or “personal and advertising injury” damage:
  - (1) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-“employee,” while in the course of his or her employment or while performing duties related to the conduct of your business, or to your other “volunteer workers” or students while performing duties related to the conduct of your business;
  - (2) To the spouse, child, parent, brother or sister of that co-“employee,” “volunteer worker” or student as a consequence of paragraph **a.(1)** above; or
  - (3) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury or damages described in **a.(1)** or **(2)** above.

Paragraph 3 of **Section II – Who is an Insured** is amended by the addition of the following paragraph:

- d. **Physical and Sexual Abuse liability Coverage** does not apply to “bodily injury” or “personal and advertising injury” that occurred before you acquired or formed the organization.

### III. LIMITS OF INSURANCE

With respect to coverage provided by this endorsement, the provisions of the General Liability Coverage Form apply unless modified by the endorsement. The following changes are applicable only to the coverage provided by this endorsement.

**Section III – Limits of Insurance** is modified by adding the following:

1. The Limits of Insurance for Physical or Sexual Abuse shown in the Schedule and the rules below fix the most we will pay for Physical or Sexual Abuse regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The Physical or Sexual Abuse Aggregate Limit is the most we will pay for the sum of all damages because of “bodily injury,” “personal and advertising injury” or “defense expenses” under the **Physical and Sexual Abuse Liability Coverage**.
3. Subject to 2. above, the Physical or Sexual Abuse Occurrence Limit is the most we will pay under the **Physical and Sexual Abuse Liability Coverage** for the sum of all damages because of “bodily injury,” “personal and advertising injury” or “defense expenses” arising out of any one "occurrence.”

The Limits of Insurance for the **Physical and Sexual Abuse Liability Coverage** apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

### IV. PHYSICAL AND SEXUAL ABUSE CONDITIONS

With respect to coverage provided by this endorsement, the provisions of the General Liability Coverage Form apply unless modified by the endorsement. The following changes are applicable only to the coverage provided by this endorsement.

**Section IV – Commercial General Liability Conditions** applies, unless amended as follows:

#### 4. Other Insurance.

Condition 4. **Other Insurance** is replaced in its entirety by the following:

If other valid and collectible insurance is available to the insured for a loss we cover under the **Physical or Sexual Abuse Liability Coverage** of this Coverage Part, our obligations are limited as follows:

**a. Primary Insurance**

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

**b. Excess Insurance**

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis; that is issued to an “employee,” “temporary worker” or “volunteer worker” which is coverage applicable to claims or “suits” to which this coverage also applies; and
- (2) Any other primary insurance available to you covering liability for “bodily injury” or “personal and advertising injury” arising out of “physical or sexual abuse” or “employer negligence” for which you have been added as an additional insured by attachment of an endorsement.

When this insurance is excess, we will have no duty under **Physical or Sexual Abuse Liability Coverage** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit." If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

## V. DEFINITIONS

**Section V, Definitions**, is modified by the addition of the following definition, which is only applicable to coverage provided by this endorsement:

1. "Defense expenses" means:
  - a. All reasonable fees and expenses charged by any attorney designated by us and all other fees, costs, expenses, including reports requested by us, resulting from the investigation, defense and appeal of a claim, potential claim, or circumstances reported if incurred by us or by you with our prior written consent. Defense expenses shall not include fees and expenses incurred by you prior to the date any claim is first reported in writing to us. Additionally, defense expenses shall not include salary charges or expenses of officials or agents of us; and
  - b. All reasonable fees and expenses charged by an attorney selected by an insured as independent counsel, where a conflict of interest exists and applicable law permits such insured to select such independent counsel and requires the insurer to pay for such independent counsel.
2. "Employer negligence" means the negligent:
  - a. Employment;
  - b. Investigation;
  - c. Supervision;
  - d. Reporting to the proper authorities, or failure to so report; or
  - e. Retentionof a person for whom any insured is or ever was legally responsible who committed an act of "physical or sexual abuse."
3. "Physical or Sexual abuse" means the actual or threatened acts of physical abuse, intentional fondling or touching of another's body in a sexual manner, voyeurism, sexual abuse, sexual misconduct, or sexual molestation by anyone of any person, while that person is in the care, custody or control of any insured.

The definition for "occurrence" is replaced by the following, but only as it applies to "physical or sexual abuse:"

"Occurrence" means all acts of "physical or sexual abuse" by one person, or two or more persons acting together, and any "employer negligence" allowing or contributing to such acts. Multiple acts of "sexual or physical abuse" by the same person(s), as well as any "employer negligence" allowing or contributing to such act(s), shall collectively be deemed to be one "occurrence." The date of the "occurrence" shall be deemed to be the date of the first act of "physical or sexual abuse."



## **VI. ADDITIONAL EXCLUSION - COVERAGE A AND B**

The following exclusion is added to paragraph 2., **Exclusions of Section I - Coverage A – Bodily Injury and Property Damage Liability** and paragraph 2., **Exclusion of Section I - Coverage B – Personal and Advertising Injury Liability**:

### **Abuse or Molestation**

“Bodily Injury,” “Property damage” or “Personal and Advertising Injury” arising out of:

1. The actual or threatened abuse or molestation, including “physical or sexual abuse” by anyone of any person while that person is in the care, custody or control of any insured; or
2. The negligent
  - a. Employment;
  - b. Investigation;
  - c. Supervision;
  - d. Reporting to the proper authorities, or failure to so report; or
  - e. Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by paragraph 1. above.

All other terms and conditions of this policy shall remain unchanged.

This endorsement forms a part of the policy to which attached, effective on the inception date of the policy unless otherwise stated herein.

<i>SERFF Tracking Number:</i>	<i>ERCB-125764010</i>	<i>State:</i>	<i>Arkansas</i>
<i>Filing Company:</i>	<i>Westport Insurance Corporation</i>	<i>State Tracking Number:</i>	<i>EFT \$50</i>
<i>Company Tracking Number:</i>	<i>WIC-SSVC-AR-08-03842-1-F</i>		
<i>TOI:</i>	<i>17.0 Other Liability - Claims Made/Occurrence</i>	<i>Sub-TOI:</i>	<i>17.0001 Commercial General Liability</i>
<i>Product Name:</i>	<i>AR - WIC - Social Services Organization Program - Form Filing</i>		
<i>Project Name/Number:</i>	<i>AR - WIC - Social Services Organization Program - Form Filing/WIC-SSVC-AR-08-03842-1-F</i>		

## Rate Information

Rate data does NOT apply to filing.

SERFF Tracking Number:      *ERCB-125764010*      State:      *Arkansas*  
Filing Company:      *Westport Insurance Corporation*      State Tracking Number:      *EFT \$50*  
Company Tracking Number:      *WIC-SSVC-AR-08-03842-1-F*  
TOI:      *17.0 Other Liability - Claims Made/Occurrence*      Sub-TOI:      *17.0001 Commercial General Liability*  
Product Name:      *AR - WIC - Social Services Organization Program - Form Filing*  
Project Name/Number:      *AR - WIC - Social Services Organization Program - Form Filing/WIC-SSVC-AR-08-03842-1-F*

## Supporting Document Schedules

		Review Status:	
<b>Satisfied -Name:</b>	Uniform Transmittal Document- Property & Casualty	Approved	09/02/2008

### Comments:

### Attachments:

AR Form Filing Schedule.pdf  
AR PCTD1 Transmittal-Forms.pdf

**FORM FILING SCHEDULE**

(This form must be provided ONLY when making a filing that includes forms)  
 (Do not refer to the body of the filing for the forms listing.)

<b>1.</b>	<b>This filing transmittal is part of Company Tracking #</b>		<b>W-SSVC-AR-08-03842-1-F</b>		
<b>2.</b>	<b>This filing corresponds to rate/rule filing number</b> (Company tracking number of rate/rule filing, if applicable)		<b>NA</b>		
<b>3.</b>	<b>Form Name /Description/Synopsis</b>	<b>Form # Include edition date</b>	<b>Replacement or Withdrawn?</b>	<b>If replacement, give form # it replaces</b>	<b>Previous state filing number, if required by state</b>
01	Social Services Professional Liability Coverage Endorsement	SP 1 956 0208	<input checked="" type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither	SP 1 956 0402	
02	Physical and Sexual Abuse Liability Endorsement	SP 1 957 0608	<input checked="" type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input type="checkbox"/> Neither	SP 1 957 0402	
03	Coverage for Designated Professionals Endorsement	SP 1 958 0402	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		
04	Commercial General Liability Coverage Part – Social Services Professional Liability Coverage Part - Declarations	SP 1 959 0402	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		
05	Mental Anguish Endorsement	SP 2 435 1102	<input type="checkbox"/> Replacement <input checked="" type="checkbox"/> Withdrawn <input type="checkbox"/> Neither		
06			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
07			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		
08			<input type="checkbox"/> Replacement <input type="checkbox"/> Withdrawn <input checked="" type="checkbox"/> Neither		

To be complete, a form filing must include the following:

1. A completed Form Filing Schedule Document (PC FFS-1) (**Do not refer to the body of the filing for the forms listing.**) and,
2. A completed Property & Casualty Transmittal Document (PC TD-1), and
3. One copy of each form to be reviewed for the reviewer's records, and
4. One copy of any other components/exhibits submitted with the filing, and
5. The appropriate state Review Requirements, if required, and
6. The appropriate filing fees, if required, and
7. A postage-paid, self-addressed envelope large enough to accommodate the return.
8. You should refer to the each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)

# Property & Casualty Transmittal Document

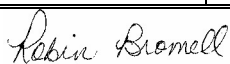
<b>1. Reserved for Insurance Dept. Use Only</b>	<b>2. Insurance Department Use only</b>	
	a. Date the filing is received:	
	b. Analyst:	
	c. Disposition:	
	d. Date of disposition of the filing:	
	e. Effective date of filing:	
	New Business	
	Renewal Business	
	f. State Filing #:	
	g. SERFF Filing #:	
h. Subject Codes		

<b>3. Group Name</b>	<b>Group NAIC #</b>
Swiss Reinsurance	181

4. Company Name(s)	Domicile	NAIC #	FEIN #	State #
Westport Insurance Corporation	MO	181-39845	48-0921045	

<b>5. Company Tracking Number</b>	<b>WIC-SSVC-AR-08-03842-1-F</b>
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**Contact Info of Filer(s) or Corporate Officer(s)** [include toll-free number]

6. Name and address	Title	Telephone #s	FAX #	e-mail
Robin Bromell 5200 Metcalf Overland Park, KS 66201	Compliance Specialist	800-255-6931, Ext. 5503	913-676-6226	Robin_bromell@swissre.com
7. Signature of authorized filer				
8. Please print name of authorized filer		Robin Bromell		

**Filing information** (see General Instructions for descriptions of these fields)

9. Type of Insurance (TOI)	17.0000
10. Sub-Type of Insurance (Sub-TOI)	17.0001
11. State Specific Product code(s) (if applicable)[See State Specific Requirements]	
12. Company Program Title (Marketing title)	Social Services Organization Program
13. Filing Type	<input type="checkbox"/> Rate/Loss Cost <input type="checkbox"/> Rules <input type="checkbox"/> Rates/Rules <input checked="" type="checkbox"/> Forms <input type="checkbox"/> Combination Rates/Rules/Forms <input type="checkbox"/> Withdrawal <input type="checkbox"/> Other (give description)
14. Effective Date(s) Requested	New: 09/15/2008      Renewal: 09/15/2008
15. Reference Filing?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
16. Reference Organization (if applicable)	
17. Reference Organization # & Title	
18. Company's Date of Filing	08/06/2008
19. Status of filing in domicile	<input type="checkbox"/> Not Filed <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Authorized <input type="checkbox"/> Disapproved

## Property & Casualty Transmittal Document—

<b>20. This filing transmittal is part of Company Tracking #</b>	<b>WIC-SSVC-AR-08-03842-1-F</b>
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<b>21. Filing Description</b> [This area can be used in lieu of a cover letter or filing memorandum and is free-form text]
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Westport Insurance Corporation (WIC) is filing two revised forms for our Social Services Organization Program. This program provides professional liability coverage and Physical and Sexual Abuse coverage for the insured and employees of the insured who provide services towards Drug and Alcohol Rehabilitation. These coverage are provided along with our generically filed ISO General Liability coverage. The rates currently on file remain unchanged.

Social Services Professional Liability Coverage Endorsement, SP 1 956 0208, has been revised to improve readability and clarity. The form has also been revised to no longer exclude Mental Anguish and the 30 day automatic coverage for any professional. This new form will replace previously filed and approved form SP 1 956 0402.

Physical and Sexual Abuse Liability Endorsement, SP 1 957 0608, has been revised to improve readability and clarity. This form has also been revised to include Physical Abuse, in addition to the original Sexual Abuse and this form no longer excludes abuse committed by contractors. This new form will replace previously filed and approved form SP 1 957 0402.

With this filing we would also like to withdraw Coverage for Designated Professionals Endorsement, SP 1 958 0402, Commercial General Liability Coverage Part – Social Services Professional Liability Coverage Part – Declarations, SP 1 959 0402, and Mental Anguish Endorsement, SP 2 435 1102. These endorsements have been included into the revised endorsement SP 1 956 0208.

<b>22. Filing Fees</b> (Filer must provide check # and fee amount if applicable) [If a state requires you to show how you calculated your filing fees, place that calculation below]
---

**Check #:** NA  
**Amount:** \$50.00

SERFF EFT

**Refer to each state's checklist for additional state specific requirements or instructions on calculating fees.**

**\*\*\*Refer to the each state's checklist for additional state specific requirements (i.e. # of additional copies required, other state specific forms, etc.)**